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January 21, 2003

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BY HAND DELIVERY

Mr. Geoffrey H. Griffis
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W., Suite 210
Washington, DC 20001

Re: Rebuttal to Post Hearing Submission by Opponent in Case No. 16962 (2304 1st Street, N.W.; Square 3125, Lot 75)

Dear Chairperson Griffis:

Enclosed for the record is Applicant's rebuttal to the filings by Opponent's counsel, Robert L. Berkebile, Esq. Mr. Berkebile filed two letters on behalf of the Opponent, Mr. and Mrs. Lonzo Shafer. The first letter dated January 13, 2003 and date-stamped "received" on that same date by the Office of Zoning concerns the report by ANC 5C. The ANC in its report states that the Applicant's BZA application was one of several issues considered at the ANC's December 17, 2003 meeting. The ANC's report states "It is important to note that timely and proper notice was given to the public concerning this regularly scheduled monthly meeting.". The Applicant has no control over when the ANC files its report and asserts that the ANC did properly request a waiver of the seven day rule so that its report could be made part of the record. Applicant contends that these facts refute the concerns raised by Opponent's counsel.

With regard to the second letter, dated January 14, 2003 but not date-stamped by the Office of Zoning until January 17, 2003, Applicant opposes this letter in its entirety on the basis that it was not filed by the January 14, 2003 deadline imposed by the Board for post-hearing submissions of additional evidence. The Board imposed the January 14, 2003 deadline at the close of the January 7, 2003 hearing on the above-captioned matter. Therefore, this second letter should returned and not received into the files of the Board under 11 DCMR § 3121.9.

If the Board were to allow the letter received on January 17, 2003 to become part of the record over the Applicant's objection, then Applicant has the following comments about the photographs which are numbered exhibits to the Opponent's letter.

BZA
Case No. 16962
Exhibit No. 39

Board of Zoning Adjustment
District of Columbia
CASE NO.16962
EXHIBIT NO.39

1. Exhibit 6 shows a total of (ten) 10 steps which lead to Opponent's kitchen and thus the Opponent's property and structure is at a significantly higher elevation than the Applicant's property. A fact which is further illustrated in Exhibits 9 and 10 of Opponent's letter. The grade of Opponent's patio is approximately 4 feet and 6 inches above the grade of Applicant's proposed garage. The top of Opponent's trellis is approximately another 8 feet and 6 inches above Opponent's patio. (See for comparison Applicant's Architectural Site Plan and West Elevation drawings submitted as Enclosure 2 of Applicant's submission dated (and received) on January 14, 2003.)

2. Exhibit 10 of Opponent's letter is taken from a very low point at the rear of Applicant's property and the high angle extremely distorts the perspective. Thus, this Exhibit 10 fails to show that both structures are of similar exterior height. Opponent's Exhibit 8 has this same distorted or misleading perspective.

3. Exhibit 7 of Opponent's letter fails to adequately show other properties in the immediate neighborhood with rear additions. Applicant has shown some of these additions in Exhibit 33 of the record and in Enclosure 4 of Applicant's submission dated (and received) on January 14, 2003.

As a final matter, Applicant requests that the Board take note that Opponent failed twice to serve copies of its post-hearing filings on all parties, including the Applicant, ANC 5C and Office of Planning, as required under 11 DCMR § 3111. As a result, Applicant had to retrieve these documents at its considerable time and expense.

Sincerely,



Lyle M. Blanchard

cc: <u>All Copies by First Class Mail</u>
Mr. and Mrs. Aislee Smith
Shawn Glerum, AIA
Robert Berkebile, Esq.
John Patrick Brown, Jr., Esq.
Office of Planning
ANC 5C

198605